

# Hawaiian Gazette.

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WHOLE 2739

## A. S. HUMPHREYS SUED BY CLIENT FOR MISCONDUCT



A. S. Humphreys.

### A Cable Ship Officer Claims \$10,000 Damages of the Former Judge for False Action and Abusive Conduct.

Former Judge Humphreys is up against a serious situation as a law practitioner if Second Engineer Laker, of the cable ship Restorer makes good his charges against him in the relations of attorney and client.

An action for \$10,000 damages has been brought against A. S. Humphreys, attorney at law, by John W. E. Laker, a recent client of defendant. Henry E. Highton is attorney for complainant in this damage suit. The cause of action alleged is malicious civil prosecution in the District Court of Waialua. From the complaint, filed yesterday for the September term of the First Circuit Court, the following allegations are condensed:

Plaintiff is the second engineer of the cable ship Restorer, now and since April 24, 1905, in the port of Honolulu. He is also a member of the Honolulu Engineering Association.

On September 18 Laker sought the advice of Humphreys on a point of law, and the following day Humphreys orally gave to him his opinion on the question submitted. The agreed charge was twenty-five dollars, which Laker promised to pay the attorney "at the commencement of the month of October, A. D. 1905."

On September 30 the defendant commenced an action against the plaintiff in the District Court of Waialua, to recover the sum of one hundred dollars for the professional services aforesaid, on which date District Magistrate A. S. Mahaulu issued a summons to this plaintiff.

"Maliciously and without reasonable or probable cause," the defendant instructed the magistrate to place the summons in the hands of the Deputy Sheriff of Waialua for service, which was done and that officer duly served the summons. By reason of such service the plaintiff was compelled to employ an attorney to represent him in the action, who duly appeared in the Magistrate's court at half-past one o'clock on October 2. The plaintiff, Humphreys, did not appear either personally or by attorney, and the action was in open court dismissed.

By reason of that action the plaintiff was put to the expense of a journey from Waialua to Honolulu and return, also that of his attorney's journey to Waialua from Honolulu. Including the attorney's fee of \$20 paid, the expenses in question amounted to about \$27.40.

"To establish express and actual malice by the defendant," Humphreys, and "to lay the foundation for the recovery of exemplary and (or) punitive damages in this action," Laker further avers:

"That on said September 30th, A. D. 1905, the said plaintiff, as the said defendant well knew, was at Waialua aforesaid, temporarily, and stopping at the Haleiwa Hotel at said place; that in fact the said plaintiff was there, with two ladies of Honolulu aforesaid, the wife and daughter of one of his friends, who were his guests, and intended to remain at the said hotel, with his said guests, until the following Tuesday, October 3d, A. D. 1905; that the said plaintiff was also at said Waialua, to attend the semi-annual dinner of the Honolulu Engineering Association, of which he was and is a member, held on the evening of said September 30th, A. D. 1905, at said Haleiwa Hotel; that, during the said last aforesaid, preceding and in connection with the action aforesaid, on the lanai of said hotel, and in the immediate vicinity thereof, the said defendant addressed to the said plaintiff various insulting expressions, such as 'dead-beat' and 'blackguard,' and also profane expressions in a loud tone and angry manner, and when the said plaintiff tried to withdraw from the presence of said defendant, followed him around the said lanai, threatened him with physical violence and also threatened to have him arrested and caused the said ladies, his guests as aforesaid, to believe that he would be arrested, and said that he would shame the said plaintiff before the said ladies, and delayed the service of summons in said action, until after the said plaintiff was seated at the dinner-table, as a member of said Honolulu Engineering Association as aforesaid; that all and singular the language and conduct aforesaid of the said defendant, in this paragraph averred, were careless, wanton and malicious, based on an assumed doubt as to whether the said

plaintiff would pay the fee of twenty-five dollars aforesaid, which in fact the said plaintiff was fully prepared to pay and did pay to the said defendant, after the premature action aforesaid had been so dismissed as aforesaid, in exact conformity with his agreement as aforesaid, and for the purpose of humiliating and discrediting the said plaintiff before the said ladies, the said members of the Honolulu Engineering Association, and other guests at the said hotel; and that, in consequence of the violent and abusive language and conduct of the said defendant, and the commencement of said action and the service of process therein as aforesaid, the said visit of said two ladies to Waialua was broken up and cut short, and they were escorted back to said Honolulu by the husband of the one and the father of the other."

A second count goes further into details. It is alleged that, to humiliate and discredit the plaintiff, and to bring him into obloquy and disgrace before the hotel guests and especially before the two ladies, the defendant wantonly and maliciously deferred the service of the process until after the dinner had commenced and the plaintiff was seated at the dinner table with the members of the Honolulu Engineering Association, in view of them and of the other guests. Humphreys is charged with having "pointed out the said plaintiff to the said deputy sheriff," and about half an hour thereafter, or 8 p. m., "at the instigation and under the direction of the said defendant the said plaintiff was called out from the said dinner-table and then and there by the said deputy sheriff served with the summons or process aforesaid."

From the premises the plaintiff claims \$10,000 damages of the defendant.

### LESLIE LOSES LIFE CLAIM ON I. I. S. N. CO.

A cablegram to Smith & Lewis states that the Ninth Circuit Court of Appeals has decided the case of Leslie vs. Inter-Island Steam Navigation Co., Ltd., against the plaintiff, who appealed from Judge Dole's decision in favor of the defendant.

Leslie sued for \$50,000 damages on account of being laid off from employment by the I. I. S. N. Co., claiming that his engagement was practically for life. He was engaged as a first mate, having a master's certificate, and, according to his complaint, he was promised early promotion and perpetual employment.

Judge Dole, in an exhaustive review of the law bearing on the case, found Leslie's claim untenable. An appeal was taken by complainant to the appellate court in San Francisco. A cablegram to Smith & Lewis, attorneys for the defendant, yesterday announced that the appeal was dismissed. J. J. Dunne was Leslie's attorney.

### BROKER POLLITZ AND LOCAL SILK CULTURE

Mr. Pollitz, the San Francisco broker, has been investigating the silk worm industry and states that he will put \$10,000 into it. Silk worms have been tried on these islands and their product is excellent. As there is a duty of 65 per cent. on raw silk, Mr. Pollitz believes that the local article would sell at a large profit. Silk culture would utilize a great many of the Japanese women and children.

#### HAD FAMOUS ANCESTOR.

Peter Peabody Davis died at Moanalua yesterday morning of cerebral hemorrhage in the forty-second years of his age. He was an uncle of Miss Lucy K. Peabody of Honolulu, of the line of ancient chiefs, a son of the late George Hue Davis and a grandson of Isaac Davis, Kamehameha I's aide de camp in his conquest of these islands. The body has been embalmed and will lie in state at the Honolulu Undertaking Co.'s parlors, 1120 Fort street, to await the arrival of the dead man's aged mother, who is expected in the Kinau on Saturday.

## INVESTIGATION ENDS IN FIASCO

### Witness Townsend Is Kept in the Dark and Vida Committee Is Discharged.

All the supervisors were present at last night's meeting with the exception of Cox, and there was a plentiful sprinkling of police in the hall.

The minutes of the last meeting were read and approved.

The chair called for ex-Detective Townsend, but that elusive individual again failed to put in an appearance and Captain Parker was sent out on his trail.

Adams was anxious to have proceedings in the Vida investigation matter stand over until Townsend could be found.

In response to an inquiry by Chairman Smith, Capt. Parker stated that he thought he could bring Townsend before the supervisors in half an hour.

A batch of demands for material, supplies, etc., on behalf of the different departments, was passed and ordered paid.

Captain Parker appeared and stated that Townsend could not be found, despite a thorough search having been made for him.

The Townsend-Vida matter was then formally taken up.

Chairman Smith read the following communication which he said he had received yesterday morning:

Honolulu, T. H., Oct. 19, 1905.  
Hon. Geo. W. Smith, Chairman, Board  
of Supervisors, County of Oahu.

Dear Sir: I desire at this time to withdraw my complaint against Assistant Sheriff Vida for the incident in his office on the 7th inst. between himself and me and which your Honorable Board is now investigating.

I feel satisfied that what occurred at that time was done on the impulse of the moment and that it is due Mr. Vida, whom I have the greatest confidence in, that he should be exonerated from all blame.

I therefore request that your Honorable Board discontinue the investigation and exonerate Mr. Vida.

I beg to remain,  
Yours very respectfully,  
EDWARD TOWNSEND.

"The chair feels that the committee has been treated contemptuously in this matter," said Smith, "and that reflection has been cast on the whole Board of Supervisors."

The chair stated that he had seen Townsend and asked him if he had written the letter under pressure and that Townsend had told him that he had drawn the letter up himself and written it on his own typewriter. He told him to attend the supervisors' meeting last night and Townsend promised to be there at 7:30 o'clock.

Moore moved that the investigating committee be discharged and Lucas instantly seconded.

Adams demanded good and sufficient reason for any such action.

"The committee has made no report to me," said Adams, "and it looks as if they're hiding something. I don't like it."

Moore said that he had been totally unable to find Townsend and as Townsend had withdrawn his charge against Vida he moved that the committee be discharged.

"Townsend has tried to put up a job on Brown and Vida," chirruped little Lucas, "and now he's afraid to come before the supervisors lest he get the worst end of the deal."

"Maybe he's scared to death," suggested Adams.

The virtuous Vida rose from his seat excitedly.

"That's a reflection on me," he shouted.

"Sit down," said the chair, "and speak when you're spoken to."

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## MONEY WAS LOST AND WON IN MOORE'S GAMBLING DEN

### Damaging Testimony Against the Joint Given by Advertiser Reporters and Others--Court's Decision Reserved Until This Morning.

The case against Chas. Moore, Sam Apoleona and Hirano, charged with conducting a gambling game on King street near Liliha street, came up in the police court before Judge Whitney yesterday morning, Frank E. Thompson appearing for the defendants.

The witnesses in the forenoon were Japanese. Hamano, Kimura and Miamoto testified to having won and lost money at the Moore game on many occasions, one witness testifying to having won as much as \$250 in a single day. They had also "contributed," presumably to the maintenance of the game.

The members of the Advertiser's editorial and reportorial staff took the witness-stand during the afternoon session.

H. M. Ayres, an Advertiser reporter, was called.

He testified to knowing Moore and to having visited the gambling house on King street, run by Moore, early this month.

"I went up the stairs," said Ayres, "but could get no further than the second floor, the stairway leading to the next story being closed by a door. I went to see a party. I had the best of reasons for knowing that a gambling game was being carried on."

"In the door which blocked the passage of the stairway was an aperture and when I knocked at the door a native came down stairs from the third story and told me I could go no further."

"Above I heard sounds of entertain-

ment—the shuffling of feet, voices and a bottle or glass dropping. I heard the denomination of money called, 'five dollars,' 'ten dollars,' and I heard expressions which I take it emanated from players of a game. I heard somebody yell, 'shoot the piece!' I also heard the click of dice and an altercation between a Japanese and another man. Then followed quietness broken only by the click of the dice. I was there ten or fifteen minutes."

The widow of Sing Kee, who owned the premises; ex-detective Townsend and several Japanese, elicited absolutely no information of value.

Tanaka had played in the game mentioned on Sept. 7 or 8 and again later on. He had lost \$4 and \$7. He saw Hirano in the gambling room.

Nomura had gambled in the King street joint on several occasions, playing 7-11. He had seen Apoleona and Hirano at the game.

Shiono had shot craps in the three-story building five or six times, not longer ago than last month. He had seen Hirano at the game.

Fukushima had gambled in the place twice, but had seen none of the defendants there.

MR. TAYLOR RECALLED.

A. P. Taylor of the Advertiser's staff who had previously been examined, was recalled.

"I visited the place," said Taylor, "on two occasions about three weeks ago. I went upstairs until my progress was barred by a heavy door at the foot of the stairway leading to the third floor."

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## ALAMEDA WILL COST A FORTUNE FOR REPAIRING

### Union Iron Works Awarded Contract and Gets Thirty Thousand Dollars if Does Job in Thirty-Five Days.

(Associated Press Cablegrams.)

SAN FRANCISCO, October 20.—The Union Iron Works has been awarded the contract to repair the Alameda within 35 days. The cost will be \$30,000.

### JAPAN'S NAVAL PRIDE.

TOKIO, October 20.—The Emperor will review the naval forces next week. The parade will be composed of 7 columns and will be 10 miles long.

### LOOT RECOVERED.

BRISTOL, Conn., October 20.—Of the money stolen by Messenger Cunliffe from the Adams Express Company \$80,000 has been recovered.

### THE WORM TURNS.

VICTORIA, October 20.—There is a revolution in Northern Korea. The Japanese are suppressing it, following Korea's inaction.

### DE-LIGHTED.

RALEIGH, N. C., October 20.—President Roosevelt has received ovations through the state.

### AFTERNOON REPORT.

RALEIGH, October 19.—President Roosevelt was given an ovation when he arrived here.

LONDON, October 19.—The Prince and Princess of Wales started today on their tour of India.

MELBOURNE, October 19.—The Australian Senate and House of Representatives have voted in favor of Irish home rule.

COPENHAGEN, October 19.—Prince Charles of Denmark has announced his willingness to accept the crown of Norway if elected by the Storting.

BRIDGEPORT, October 19.—Edward Cunliffe, the Adams Express employe who disappeared with \$100,000 of a Pittsburg bank's funds, was arrested here today. He confessed his crime and declares that the money is intact.

### HOTTENTOTS WHIP GERMANS.

CAPE TOWN, Cape Colony, October 12.—Morengo and Morris, chiefs of the rebellious Hottentots of German-Southwest Africa, have captured Jerusalem Camp between Warmbad and Scuit Drift after severe fighting, during which Lieut. Surmand and five men were killed and eight men were wounded. The Hottentots sustained no losses and captured all the stock and stores. Several Germans were made prisoners, but after being disarmed were allowed to return to Lieutenant-General Von Trotha, commander of the German forces, with a letter from Morengo, saying that the Hottentots were now in a position to take the offensive and would fight to the finish. The German garrison at Kliplaats, hearing that Morengo was in the vicinity, burned their stores, deserted their post and retired to Descondesdam. The garrison at Nkaas has been strengthened by 900 men and a battery of artillery.

## BIG BLAST BRINGS DOWN CEILING AT THE HAWAIIAN HOTEL EARLY THIS MORNING

What might have easily been a fatal accident was caused at the Hawaiian Hotel at 1:55 this morning, by a heavy blast at the Alakea street slip.

As Night Clerk P. W. Cruse, who was making his rounds, was walking along the main hall leading to the lanai, the blast occurred, and a considerable section of the hall ceiling fell to the ground.

The detached plaster, the weight of which is great, literally fell at Mr. Cruse's feet and his escape was indeed a lucky one.

Last night it was feared that another blast would bring the entire hall ceiling down.